

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JULIE NUTT and KEITH NUTT
10C Whitney Ridge Road, Apt. 3
Fairport, NY 14450

Plaintiffs

vs.

BEST WESTERN INTERNATIONAL
6201 North 24th Parkway
Phoenix, AZ 85016

and

PREMIER HOTEL MANAGEMENT
200 Tigie Street
Dunmore, PA 18509

and

PREMIER HOTEL
d/b/a BEST WESTERN
200 Tigie Street
Dunmore, PA 18509

Defendants

CIVIL ACTION - LAW
JURY TRIAL DEMANDED

No.: _____

COMPLAINT

AND NOW COME the Plaintiffs, Julie Nutt and Keith Nutt, her husband, by and through counsel, Abrahamsen, Conaboy & Abrahamsen, P.C., and hereby complain against the above referenced Defendants as follows:

PARTIES

1. Plaintiff, Julie Nutt, is an adult and competent individual who resides at

10C Whitney Ridge Road, Apt. 3, Fairport, NY 14450. For diversity of jurisdiction purposes, Mrs. Nutt is considered to be a citizen of the State of New York.

2. Plaintiff, Keith Nutt, is an adult and competent individual who resides at 10C Whitney Ridge Road, Apt. 3, Fairport, NY 14450. For diversity of jurisdiction purposes, Mr. Nutt is considered to be a citizen of the State of New York.

3. The Defendant, Best Western International, upon information and belief, is a business entity licensed to conduct business within the Commonwealth of Pennsylvania with a corporate address of 6201 North 24th Parkway, Phoenix, AZ 85016. For diversity of jurisdiction purposes, Best Western is considered a resident of the State of Arizona.

4. The Defendant, Premier Hotel Management, upon information and belief, is a business entity that was, at all time material and relevant hereto, licensed to conduct business within the Commonwealth of Pennsylvania with a principal address of 200 Tighe Street, Dunmore, PA 18512. For diversity of jurisdiction purposes, Premier Management Inc. is considered a citizen of the Commonwealth of Pennsylvania.

5. The Defendant, Premier Hotel d/b/a Best Western, upon information and belief, was, at all times material and relevant hereto, a is a business entity licensed to conduct business within the Commonwealth of Pennsylvania with a principal address of 200 Tighe Street, Dunmore, PA 18512. For diversity of jurisdiction purposes,

Premier Hotel d/b/a Best Western is considered a citizen of the Commonwealth of Pennsylvania.

JURISDICTION AND VENUE

6. This Honorable Court possesses jurisdiction over this matter pursuant to diversity jurisdiction, as the parties are citizens of different states, and the amount in controversy exceeds \$75,000.00.

7. Venue is appropriate because the actions that give rise to this controversy occurred in Dunmore, Lackawanna County, Pennsylvania which is located within the Middle District of Pennsylvania.

FACTUAL BACKGROUND

8. On August 24, 2014, ambulance and police department personnel were dispatched to the Best Western Hotel, 200 Tigue Street, Dunmore, Pennsylvania, after a call placed by Plaintiff, Keith Nutt reporting that his wife, Plaintiff, Julie Nutt had fallen unconscious.

9. Upon arriving at the scene, emergency responders found two people, Plaintiffs, Julie Nutt and Keith Nutt, laying in the hallway across from room 222, where they had stayed the previous two (2) nights. Both were reported as experiencing flu-like symptoms, including dizziness, weakness and distress.

10. Emergency responders checked the entrance to room 222 with a 4-Gas Meter and received a high alarm immediately, getting a reading of 80 plus PPM,

despite the fact the door to Plaintiffs' room had been open for a lengthy period before such readings were performed. Rooms to the left and right of room 222 were also checked, and extremely high readings were found.

11. Emergency responders were forced to pull the fire alarm at the building and force the evacuation of the entire hotel, including staff.

12. The local gas company, UGI, was called to the scene, to make sure that there was no natural gas leak. A natural gas leak was ruled out.

13. The Dunmore Police and Fire Departments checked all rooms on all three floors of the hotel including storage rooms and cleaning rooms.

14. Levels of carbon monoxide were found on all three floors, with readings ranging from 10 PPM to over 300 PPM.

15. Multiple problems were found with equipment in the basement and utility rooms.

16. All systems of the hotel were shut down and the building was vented by opening of doors, windows and the use of fans.

17. After one hour, emergency crews went back in to re-check the entire hotel with 4-Gas Meters. All rooms showed no readings except low levels in room 222 and the utility room next to it.

18. Room 222 of the hotel and the utility room next to it were determined to be the source of the carbon monoxide leak.

19. On August 25, 2014, the Borough on Dunmore Inspectors returned to the property.

20. On August 25, 2014 the hotel was permanently closed because it was determined to be unsafe due to the fact that it lacked adequate protection from fire and it contained unsafe equipment.

21. Specifically, it was determined that the pool heater exhaust system was totally rusted out and not connected, the gas hot water exhaust system for the kitchen was rusted out and not connected to the chimney properly, and the room containing the hot water heater had approximately 12 inches of water located in it and was not draining properly.

22. Additionally, the sprinkler system in the hotel was found to be in violation and in need of repair. The hotel was directed to hire a mechanical engineer to design new hot water heaters. Additional violations were found in the electrical code and stairways.

23. On August 24, 2014, Julie Nutt and Keith Nutt were transferred via ambulance from the hotel property to Geisinger Community Medical Center. Both Plaintiffs were diagnosed with carbon monoxide exposure at the Best Western Hotel while undergoing treatment at Geisinger Community Medical Center.

24. Mr. Nutt was treated at Geisinger Community Medical Center and cut his treatment short due to the severity of his wife's symptoms.

25. As a result of her carbon monoxide poisoning, Julie Nutt was life flighted from Geisinger Community Medical Center to the Hospital of the University of Pennsylvania in Philadelphia, Pennsylvania.

26. At the hospital, Mrs. Nutt was described as a young female with no significant past medical history who arrived via helicopter transport due to carbon monoxide exposure.

27. At the Hospital of the University of Pennsylvania, Mrs. Nutt was noted to have a high level of carbon monoxide in her system. She required 3 hyper baric oxygen treatments due to symptomatic carbon monoxide exposure.

COUNT I

JULIE NUTT V. BEST WESTERN INTERNATIONAL

NEGLIGENCE

28. Plaintiffs incorporate by reference as though the same were fully set forth herein the allegations of paragraphs one (1) through twenty-seven (27) of her Complaint.

29. The above described events of August 24, 2014 and their sequelae were cause by the negligence, carelessness and recklessness of the Defendant, Best Western International Hotel in that it:

- a. Allowed for the operation of the Best Western Hotel at 200 Tigue Street when the same was not safe for hotel guests;
- b. Failed to detect a carbon monoxide leak at a Best Western Hotel

- located at 200 Tigue Street in Dunmore, Pennsylvania;
- c. Allowed a hotel to operate without adequate fire protection;
- d. Allowed a hotel to operate with unsafe equipment;
- e. Allowed a hotel to operate when the pool heater exhaust system was totally rusted out and not connected;
- f. Allowed a hotel to operate when the gas hot water heater exhausted system for the kitchen was rusted out and not connected to the chimney properly;
- g. Allowed a hotel to operate when the room containing the hot water heater was not draining properly;
- h. Allowed a hotel to operate when the sprinkler system was in violation of required building codes;
- i. Allowed a hotel to operate when the electric code was in violation of requirements;
- j. Allowed a hotel to operate when the stairways were in violation of requirements;
- k. Failed to properly maintain the hotel premises at 200 Tigue Street, Dunmore, Pennsylvania in a reasonably safe condition;
- l. Failed to exercise due care in warning its business invitees of the dangerous conditions posed by the unsafe conditions located at the Best Western Hotel at 200 Tigue Street, Dunmore, Pennsylvania;
- m. Failed to make reasonable inspections of the property which would have revealed the dangerous conditions posed by the unsafe equipment and carbon monoxide leak;
- n. Permitted a carbon monoxide leak to occur to the point where it posed an unreasonable risk to the Plaintiff and to other business invitees; and
- o. Caused, allowed and permitted a dangerous condition to exist where the Defendant knew, or by the exercise of reasonable care, should have known of its existence and of the danger presented to persons using and utilizing the said hotel.

30. As a result of the foregoing, the Plaintiff, Julie Nutt, suffered serious personal injuries including, but not limited to, carbon monoxide poisoning, periods of unconsciousness, periods of confusion, fear, dizziness, lightheadedness, anxiety,

cognitive difficulties, post-traumatic stress disorder, and other medical problems, some or all of which may be permanent in nature.

31. As a direct and proximate result of the negligence, carelessness and recklessness as more particularly described above, the Plaintiff, Julie Nutt, suffered great physical pain and anguish, a severe shock to the nervous systems, humiliation and embarrassment, and she may continue to suffer the same for an indefinite time into the future.

32. In addition, as a direct and proximate result of the above mentioned acts, the Plaintiff, Julie Nutt, has been or will be obliged to undergo medical attention and care and to incur various expenses and may be obliged to continue to expend or incur such expenditures for the remainder of her natural life.

33. As a further result, Plaintiff, Julie Nutt, was unable and will be unable in the future to attend to her usual daily activities, all to her detriment and loss.

34. As a further result, Plaintiff, Julie Nutt, was unable to work and, as a result, suffered a loss of earnings and a diminished earning capacity, all to her detriment and loss.

35. The aforementioned actions of the Defendant were reckless, wanton, willful, egregious, and done despite the fact that Defendant had notice of carbon monoxide leaks causing injury and death to business invitees at other Best Western locations in recent years, warranting an award of punitive damages in favor of the

Plaintiff and against the Defendant.

WHEREFORE, Plaintiff, Julie Nutt, demands judgment in her favor and against the Defendant, Best Western International in an amount in excess of \$75,000 together with interests, fees, costs of suit and punitive damages.

COUNT II

KEITH NUTT V. BEST WESTERN INTERNATIONAL

NEGLIGENCE

36. Plaintiffs incorporate by reference as though the same were fully set forth herein the allegations of paragraphs one (1) through thirty-five (35) of their Complaint.

37. The above described events of August 24, 2014 and their sequelae were cause by the negligence, carelessness and recklessness of the Defendant, Best Western International Hotel in that it:

- a. Allowed for the operation of the Best Western Hotel at 200 Tigue Street when the same was not safe for hotel guests;
- b. Failed to detect a carbon monoxide leak at a Best Western Hotel located at 200 Tigue Street in Dunmore, Pennsylvania;
- c. Allowed a hotel to operate without adequate fire protection;
- d. Allowed a hotel to operate with unsafe equipment;
- e. Allowed a hotel to operate when the pool heater exhaust system was totally rusted out and not connected;
- f. Allowed a hotel to operate when the gas hot water heater exhausted system for the kitchen was rusted out and not connected to the chimney properly;
- g. Allowed a hotel to operate when the room containing the hot water heater was not draining properly;

- h. Allowed a hotel to operate when the sprinkler system was in violation of required building codes;
- i. Allowed a hotel to operate when the electric code was in violation of requirements;
- j. Allowed a hotel to operate when the stairways were in violation of requirements;
- k. Failed to properly maintain the hotel premises at 200 Tigue Street, Dunmore, Pennsylvania in a reasonably safe condition;
- l. Failed to exercise due care in warning its business invitees of the dangerous conditions posed by the unsafe conditions located at the Best Western Hotel at 200 Tigue Street, Dunmore, Pennsylvania;
- m. Failed to make reasonable inspections of the property which would have revealed the dangerous conditions posed by the unsafe equipment and carbon monoxide leak;
- n. Permitted a carbon monoxide leak to occur to the point where it posed an unreasonable risk to the Plaintiff and to other business invitees; and
- o. Caused, allowed and permitted a dangerous condition to exist where the Defendant knew, or by the exercise of reasonable care, should have known of its existence and of the danger presented to persons using and utilizing the said hotel.

38. As a result of the foregoing, the Plaintiff, Keith Nutt, suffered serious personal injuries including, but not limited to, carbon monoxide poisoning, trauma related disorder, stress related disorder, and other medical problems, some or all of which may be permanent in nature.

39. As a direct and proximate result of the negligence, carelessness and recklessness as more particularly described above, the Plaintiff, Keith Nutt, suffered great physical pain and anguish, a severe shock to the nervous systems, humiliation and embarrassment, and he may continue to suffer the same for an indefinite time into

the future.

40. In addition, as a direct and proximate result of the above mentioned acts, the Plaintiff, Keith Nutt, has been or will be obliged to undergo medical attention and care and to incur various expenses and may be obliged to continue to expend or incur such expenditures for the remainder of his natural life.

41. As a further result, Plaintiff, Keith Nutt, was unable and will be unable in the future to attend to his usual daily activities, all to his detriment and loss.

42. As a further result, Plaintiff, Keith Nutt, was unable to work and, as a result, suffered a loss of earnings and a diminished earning capacity, all to his detriment and loss.

43. The aforementioned actions of the Defendant were reckless, wanton, willful, egregious, and done despite the fact that Defendant had notice of carbon monoxide leaks causing injury and death to business invitees at other Best Western locations in recent years, warranting an award of punitive damages in favor of the Plaintiff and against the Defendant.

WHEREFORE, Plaintiff, Keith Nutt, demands judgment in his favor and against the Defendant, Best Western International in an amount in excess of \$75,000 together with interests, fees, costs of suit and punitive damages.

COUNT III

JULIE NUTT V. PREMIER HOTEL MANAGEMENT

NEGLIGENCE

44. Plaintiffs incorporate by reference as though the same were fully set forth herein the allegations of paragraphs one (1) through forty-five (45) of her Complaint.

45. The above described events of August 24, 2014 and their sequelae were cause by the negligence, carelessness and recklessness of the Defendant, Premier Hotel Management in that it:

- a. Allowed for the operation of the Best Western Hotel at 200 Tigue Street when the same was not safe for hotel guests;
- b. Failed to detect a carbon monoxide leak at a Best Western Hotel located at 200 Tigue Street in Dunmore, Pennsylvania;
- c. Allowed a hotel to operate without adequate fire protection;
- d. Allowed a hotel to operate with unsafe equipment;
- e. Allowed a hotel to operate when the pool heater exhaust system was totally rusted out and not connected;
- f. Allowed a hotel to operate when the gas hot water heater exhausted system for the kitchen was rusted out and not connected to the chimney properly;
- g. Allowed a hotel to operate when the room containing the hot water heater was not draining properly;
- h. Allowed a hotel to operate when the sprinkler system was in violation of required building codes;
- i. Allowed a hotel to operate when the electric code was in violation of requirements;
- j. Allowed a hotel to operate when the stairways were in violation of requirements;
- k. Failed to properly maintain the hotel premises at 200 Tigue Street, Dunmore, Pennsylvania in a reasonably safe condition;
- l. Failed to exercise due care in warning it business invitees of the dangerous conditions posed by the unsafe conditions located at the Best Western Hotel at 200 Tigue Street, Dunmore, Pennsylvania;

- m. Failed to make reasonable inspections of the property which would have revealed the dangerous conditions posed by the unsafe equipment and carbon monoxide leak;
- n. Permitted a carbon monoxide leak to occur to the point where it posed an unreasonable risk to the Plaintiff and to other business invitees; and
- o. Caused, allowed and permitted a dangerous condition to exist where the Defendant knew, or by the exercise of reasonable care, should have known of its existence and of the danger presented to persons using and utilizing the said hotel.

46. As a result of the foregoing, the Plaintiff, Julie Nutt, suffered serious personal injuries including, but not limited to, carbon monoxide poisoning, periods of unconsciousness, periods of confusion, fear, dizziness, lightheadedness, anxiety, cognitive difficulties, post-traumatic stress disorder, and other medical problems, some or all of which may be permanent in nature.

47. As a direct and proximate result of the negligence, carelessness and recklessness as more particularly described above, the Plaintiff, Julie Nutt, suffered great physical pain and anguish, a severe shock to the nervous systems, humiliation and embarrassment, and she may continue to suffer the same for an indefinite time into the future.

48. In addition, as a direct and proximate result of the above mentioned acts, the Plaintiff, Julie Nutt, has been or will be obliged to undergo medical attention and care and to incur various expenses and may be obliged to continue to expend or incur such expenditures for the remainder of her natural life.

49. As a further result, Plaintiff, Julie Nutt, was unable and will be unable in the future to attend to her usual daily activities, all to her detriment and loss.

50. As a further result, Plaintiff, Julie Nutt, was unable to work and, as a result, suffered a loss of earnings and a diminished earning capacity, all to her detriment and loss.

51. The aforementioned actions of the Defendant were reckless, wanton, willful, egregious, and done despite the fact that Defendant had notice of carbon monoxide leaks causing injury and death to business invitees at other Best Western locations in recent years, warranting an award of punitive damages in favor of the Plaintiff and against the Defendant.

WHEREFORE, Plaintiff, Julie Nutt, demands judgment in her favor and against the Defendant, Premier Hotel Management in an amount in excess of \$75,000 together with interests, fees, costs of suit and punitive damages.

COUNT IV

KEITH NUTT V. PREMIER HOTEL MANAGEMENT

NEGLIGENCE

52. Plaintiffs incorporate by reference as though the same were fully set forth herein the allegations of paragraphs one (1) through fifty-one (51) of his Complaint.

53. The above described events of August 24, 2014 and their sequelae were

cause by the negligence, carelessness and recklessness of the Defendant, Premier Hotel Management in that it:

- a. Allowed for the operation of the Best Western Hotel at 200 Tighe Street when the same was not safe for hotel guests;
- b. Failed to detect a carbon monoxide leak at a Best Western Hotel located at 200 Tighe Street in Dunmore, Pennsylvania;
- c. Allowed a hotel to operate without adequate fire protection;
- d. Allowed a hotel to operate with unsafe equipment;
- e. Allowed a hotel to operate when the pool heater exhaust system was totally rusted out and not connected;
- f. Allowed a hotel to operate when the gas hot water heater exhausted system for the kitchen was rusted out and not connected to the chimney properly;
- g. Allowed a hotel to operate when the room containing the hot water heater was not draining properly;
- h. Allowed a hotel to operate when the sprinkler system was in violation of required building codes;
- i. Allowed a hotel to operate when the electric code was in violation of requirements;
- j. Allowed a hotel to operate when the stairways were in violation of requirements;
- k. Failed to properly maintain the hotel premises at 200 Tighe Street, Dunmore, Pennsylvania in a reasonably safe condition;
- l. Failed to exercise due care in warning its business invitees of the dangerous conditions posed by the unsafe conditions located at the Best Western Hotel at 200 Tighe Street, Dunmore, Pennsylvania;
- m. Failed to make reasonable inspections of the property which would have revealed the dangerous conditions posed by the unsafe equipment and carbon monoxide leak;
- n. Permitted a carbon monoxide leak to occur to the point where it posed an unreasonable risk to the Plaintiff and to other business invitees; and
- o. Caused, allowed and permitted a dangerous condition to exist where the Defendant knew, or by the exercise of reasonable care, should have known of its existence and of the danger presented to persons using and utilizing the said hotel.

54. As a result of the foregoing, the Plaintiff, Keith Nutt, suffered serious personal injuries including, but not limited to, carbon monoxide poisoning, trauma related disorder, stress related disorder and other medical problems, some or all of which may be permanent in nature.

55. As a direct and proximate result of the negligence, carelessness and recklessness as more particularly described above, the Plaintiff, Keith Nutt, suffered great physical pain and anguish, a severe shock to the nervous systems, humiliation and embarrassment, and he may continue to suffer the same for an indefinite time into the future.

56. In addition, as a direct and proximate result of the above mentioned acts, the Plaintiff, Keith Nutt, has been or will be obliged to undergo medical attention and care and to incur various expenses and may be obliged to continue to expend or incur such expenditures for the remainder of his natural life.

57. As a further result, Plaintiff, Keith Nutt, was unable and will be unable in the future to attend to his usual daily activities, all to his detriment and loss.

58. As a further result, Plaintiff, Keith Nutt, was unable to work and, as a result, suffered a loss of earnings and a diminished earning capacity, all to his detriment and loss.

59. The aforementioned actions of the Defendant were reckless, wanton,

willful, egregious, and done despite the fact that Defendant had notice of carbon monoxide leaks causing injury and death to business invitees at other Best Western locations in recent years, warranting an award of punitive damages in favor of the Plaintiff and against the Defendant.

WHEREFORE, Plaintiff, Keith Nutt, demands judgment in her favor and against the Defendant, Premier Hotel Management in an amount in excess of \$75,000 together with interests, fees, costs of suit and punitive damages.

COUNT V

JULIE NUTT V. PREMIER HOTEL d/b/a BEST WESTERN

NEGLIGENCE

60. Plaintiffs incorporate by reference as though the same were fully set forth herein the allegations of paragraphs one (1) through fifty-nine (59) of her Complaint.

61. The above described events of August 24, 2014 and their sequelae were cause by the negligence, carelessness and recklessness of the Defendant, Premier Hotel d/b/a Best Western Hotel in that it:

- a. Allowed for the operation of the Best Western Hotel at 200 Tighe Street when the same was not safe for hotel guests;
- b. Failed to detect a carbon monoxide leak at a Best Western Hotel located at 200 Tighe Street in Dunmore, Pennsylvania;
- c. Allowed a hotel to operate without adequate fire protection;
- d. Allowed a hotel to operate with unsafe equipment;
- e. Allowed a hotel to operate when the pool heater exhaust system

- was totally rusted out and not connected;
- f. Allowed a hotel to operate when the gas hot water heater exhausted system for the kitchen was rusted out and not connected to the chimney properly;
- g. Allowed a hotel to operate when the room containing the hot water heater was not draining properly;
- h. Allowed a hotel to operate when the sprinkler system was in violation of required building codes;
- i. Allowed a hotel to operate when the electric code was in violation of requirements;
- j. Allowed a hotel to operate when the stairways were in violation of requirements;
- k. Failed to properly maintain the hotel premises at 200 Tigue Street, Dunmore, Pennsylvania in a reasonably safe condition;
- l. Failed to exercise due care in warning its business invitees of the dangerous conditions posed by the unsafe conditions located at the Best Western Hotel at 200 Tigue Street, Dunmore, Pennsylvania;
- m. Failed to make reasonable inspections of the property which would have revealed the dangerous conditions posed by the unsafe equipment and carbon monoxide leak;
- n. Permitted a carbon monoxide leak to occur to the point where it posed an unreasonable risk to the Plaintiff and to other business invitees; and
- o. Caused, allowed and permitted a dangerous condition to exist where the Defendant knew, or by the exercise of reasonable care, should have known of its existence and of the danger presented to persons using and utilizing the said hotel.

62. As a result of the foregoing, the Plaintiff, Julie Nutt, suffered serious personal injuries including, but not limited to, carbon monoxide poisoning, periods of unconsciousness, periods of confusion, fear, dizziness, lightheadedness, anxiety, cognitive difficulties, post-traumatic stress disorder, and other medical problems, some or all of which may be permanent in nature.

63. As a direct and proximate result of the negligence, carelessness and recklessness as more particularly described above, the Plaintiff, Julie Nutt, suffered great grave physical pain and anguish, a severe shock to the nervous systems, humiliation and embarrassment, and she may continue to suffer the same for an indefinite time into the future.

64. In addition, as a direct and proximate result of the above mentioned acts, the Plaintiff, Julie Nutt, has been or will be obliged to undergo medical attention and care and to incur various expenses and may be obliged to continue to expend or incur such expenditures for the remainder of her natural life.

65. As a further result, Plaintiff, Julie Nutt, was unable and will be unable in the future to attend to her usual daily activities, all to her detriment and loss.

66. As a further result, Plaintiff, Julie Nutt, was unable to work and, as a result, suffered a loss of earnings and a diminished earning capacity, all to her detriment and loss.

67. The aforementioned actions of the Defendant were reckless, wanton, willful, egregious, and done despite the fact that Defendant has notice of carbon monoxide leaks causing injury and death to business invitees at other Best Western locations in recent years, warranting an award of punitive damages in favor of the Plaintiff and against the Defendant.

WHEREFORE, Plaintiff, Julie Nutt, demands judgment in her favor and

against the Defendant, Premier Hotel d/b/a Best Western in an amount in excess of \$75,000 together with interests, fees, costs of suit and punitive damages.

COUNT VI

KEITH NUTT V. PREMIER HOTEL d/b/a BEST WESTERN

NEGLIGENCE

68. Plaintiffs incorporate by reference as though the same were fully set forth herein the allegations of paragraphs one (1) through sixty-seven (67) of his Complaint.

69. The above described events of August 24, 2014 and their sequelie were cause by the negligence, carelessness and recklessness of the Defendant, Premier Hotel d/b/a Best Western in that it:

- a. Allowed for the operation of the Best Western Hotel at 200 Tigue Street when the same was not safe for hotel guests;
- b. Failed to detect a carbon monoxide leak at a Best Western Hotel located at 200 Tigue Street in Dunmore, Pennsylvania;
- c. Allowed a hotel to operate without adequate fire protection;
- d. Allowed a hotel to operate with unsafe equipment;
- e. Allowed a hotel to operate when the pool heater exhaust system was totally rusted out and not connected;
- f. Allowed a hotel to operate when the gas hot water heater exhausted system for the kitchen was rusted out and not connected to the chimney properly;
- g. Allowed a hotel to operate when the room containing the hot water heater was not draining properly;
- h. Allowed a hotel to operate when the sprinkler system was in violation of required building codes;
- i. Allowed a hotel to operate when the electric code was in violation of requirements;

- j. Allowed a hotel to operate when the stairways were in violation of requirements;
- k. Failed to properly maintain the hotel premises at 200 Tighe Street, Dunmore, Pennsylvania in a reasonably safe condition;
- l. Failed to exercise due care in warning its business invitees of the dangerous conditions posed by the unsafe conditions located at the Best Western Hotel at 200 Tighe Street, Dunmore, Pennsylvania;
- m. Failed to make reasonable inspections of the property which would have revealed the dangerous conditions posed by the unsafe equipment and carbon monoxide leak;
- n. Permitted a carbon monoxide leak to occur to the point where it posed an unreasonable risk to the Plaintiff and to other business invitees; and
- o. Caused, allowed and permitted a dangerous condition to exist where the Defendant knew, or by the exercise of reasonable care, should have known of its existence and of the danger presented to persons using and utilizing the said hotel.

70. As a result of the foregoing, the Plaintiff, Keith Nutt, suffered serious personal injuries including, but not limited to, carbon monoxide poisoning, stress related disorder, trauma related disorder, and other medical problems, some or all of which may be permanent in nature.

71. As a direct and proximate result of the negligence, carelessness and recklessness as more particularly described above, the Plaintiff, Keith Nutt, suffered great physical pain and anguish, a severe shock to the nervous systems, humiliation and embarrassment, and he may continue to suffer the same for an indefinite time into the future.

72. In addition, as a direct and proximate result of the above mentioned acts,

the Plaintiff, Keith Nutt, has been or will be obliged to undergo medical attention and care and to incur various expenses and may be obliged to continue to expend or incur such expenditures for the remainder of his natural life.

73. As a further result, Plaintiff, Keith Nutt, was unable and will be unable in the future to attend to his usual daily activities, all to his detriment and loss.

74. As a further result, Plaintiff, Keith Nutt, was unable to work and, as a result, suffered a loss of earnings and a diminished earning capacity, all to his detriment and loss.

75. The aforementioned actions of the Defendant were reckless, wanton, willful, egregious, and done despite the fact that Defendant had notice of carbon monoxide leaks causing injury and death to business invitees at other Best Western locations in recent years, warranting an award of punitive damages in favor of the Plaintiff and against the Defendant.

WHEREFORE, Plaintiff, Keith Nutt, demands judgment in his favor and against the Defendant, Premier Hotel d/b/a Best Western in an amount in excess of \$75,000 together with interests, fees, costs of suit and punitive damages.

COUNT VII

**KEITH NUTT V. BEST WESTERN INTERNATIONAL, PREMIER
HOTEL MANAGEMENT AND PREMIER HOTEL d/b/a BEST WESTERN
LOSS OF CONSORTIUM**

76. Plaintiffs incorporate by reference as though the same were fully set forth herein the allegations of paragraphs one (1) through seventy-five (75) of his Complaint.

77. Solely as a result of the aforementioned negligence, carelessness and reckless conduct of the Defendants, the Plaintiff, Keith Nutt, has been deprived of the care, comfort and companionship of his wife, Julie Nutt, and may be so deprived for an indefinite time into the future.

WHEREFORE, Plaintiff, Keith Nutt, demands judgment in her favor and against the Defendant, Best Western International, Premier Hotel Management and Premier Hotel D/B/S Best Western in an amount in excess of \$75,000 together with interests, fees, costs of suit and punitive damages.

COUNT VIII

JULIE NUTT V. BEST WESTERN INTERNATIONAL, PREMIER HOTEL MANAGEMENT AND PREMIER HOTEL d/b/a BEST WESTERN

LOSS OF CONSORTIUM

78. Plaintiffs incorporate by reference as though the same were fully set forth herein the allegations of paragraphs one (1) through seventy-seven (77) of her Complaint.

79. Solely as a result of the aforementioned negligence, carelessness and reckless conduct of the Defendants, the Plaintiff, Julie Nutt, has been deprived of the

care, comfort and companionship of his wife, Keith Nutt, and may be so deprived for an indefinite time into the future.

WHEREFORE, Plaintiff, Julie Nutt, demands judgment in her favor and against the Defendant, Best Western International, Premier Hotel Management and Premier Hotel d/b/a Best Western in an amount in excess of \$75,000 together with interests, fees, costs of suit and punitive damages.

Respectfully submitted,

By: /s/ James J. Conaboy
James J. Conaboy, Esquire
Attorney I.D. No.: 77987

Abrahamsen, Conaboy & Abrahamsen, P.C.
1006 Pittston Avenue
Scranton, PA 18505
(570) 348-0200
jconaboy@law-aca.com

VERIFICATION

I, JULIE NUTT, hereby verify that I am the Plaintiff herein, and that the statements contained in the foregoing "COMPLAINT" are true and correct to the best of my information, knowledge and belief, and that the statements are made subject to the penalties of 18 Pa. C.S. § 4904 pertaining to unsworn falsification to authorities.



JULIE NUTT

DATE: 12/27, 2015

VERIFICATION

I, KEITH NUTT, hereby verify that I am the Plaintiff herein, and that the statements contained in the foregoing "COMPLAINT" are true and correct to the best of my information, knowledge and belief, and that the statements are made subject to the penalties of 18 Pa. C.S. § 4904 pertaining to unsworn falsification to authorities.



KEITH NUTT

DATE: 12/27, 2015

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

JULIE NUTT and KEITH NUTT
10C Whitney Ridge Road, Apt. 3
Fairport, NY 14450

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

James J. Conaboy, Esquire
1006 Pittston Avenue
Scranton, PA 18505

DEFENDANTS

BEST WESTERN INTERNATIONAL
PREMIER HOTEL MANAGEMENT
PREMIER HOTEL d/b/a BEST WESTERN

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)
Unknown

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1332

Brief description of cause:
Carbon Monoxide Leak

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
75,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE
01/04/2016

SIGNATURE OF ATTORNEY OF RECORD

James J. Conaboy

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE